

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, JANUARY 6, 2009
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Hueso at 10:02 a.m. The meeting was recessed by Council President Hueso at 12:00 p.m.

The meeting was reconvened by Council President Hueso at 2:00 p.m. with all Council Members present. The meeting was adjourned by Council President Hueso at 3:55 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Lightner-present
 - (2) Council Member Faulconer-present
 - (3) Council Member Gloria-present
 - (4) Council Member Young-present
 - (5) Council Member Demaio-present
 - (6) Council Member Frye-present
 - (7) Council Member Emerald-present
 - (8) Council Member Hueso-present
- Clerk-Maland (dlc/mz)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Lightner-present
- (2) Council Member Faulconer-present
- (3) Council Member Gloria-present
- (4) Council Member Young-present
- (5) Council Member DeMaio-present
- (6) Council Member Frye-present
- (7) Council Member Emerald-present
- (8) Council Member Hueso-present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Rudy Reyes commented on medical cannabis.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:08 a.m. – 10:11 a.m.)

PUBLIC COMMENT-2:

Don Stillwell commented on prayer and the flag salute.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:12 a.m. - 10:14 a.m.)

PUBLIC COMMENT-3:

Al Strohlein commented on the Council.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:14 a.m. - 10:16 a.m.)

PUBLIC COMMENT-4:

Crickett Bradburn commented on the new year.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:16 a.m. - 10:17 a.m.)

PUBLIC COMMENT-5:

Hud Collins commented on City finances.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:17 a.m. - 10:20 a.m.)

PUBLIC COMMENT-6:

Jarvis Ross commented on a prologue.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:21 a.m. - 10:24 a.m.)

PUBLIC COMMENT-7:

Bill Bradshaw commented on the City budget.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:24 a.m. - 10:27 a.m.)

PUBLIC COMMENT-8:

Hassie-Pip Negus Megrave commented on a conspiracy.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:28.m. - 10:31 a.m.)

PUBLIC COMMENT-9:

Izean Rim Jr. commented on public safety.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:31 a.m. - 10:34 a.m.)

PUBLIC COMMENT-10:

Joy Sunyata gave thanks.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:34m. - 10:36 a.m.)

PUBLIC COMMENT-11:

Cynthia Conger commented on cell towers and Skate World.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:36 a.m. - 10:39 a.m.)

PUBLIC COMMENT-12:

Thomas Glasser commented on attacks.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:39 a.m. - 10:40 a.m.)

COUNCIL COMMENT:

None.

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

None.



ITEM-30: Approval of Council Minutes.

TODAY'S ACTION IS:

APPROVED

Approval of Council Minutes for the meetings of:

10/20/2008
10/21/2008
10/27/2008
10/28/2008
11/03/2008 - Adjourned
11/04/2008 - Adjourned
11/10/2008
11/11/2008 – Adjourned
11/17/2008
11/18/2008
11/24/2008
11/25/2008 – Adjourned

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:03 a.m. – 10:04 a.m.)

MOTION BY YOUNG TO APPROVE. Second by Faulconer. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.



ITEM-50: Second Amendment to the Agreement with Cornerstone Engineering Corporation for La Jolla Village Drive-Torrey Pines Road to Villa La Jolla. (University City Community Area. District 1.)

(Continued from the meeting of December 9, 2008, Item 51, at the request of Councilmember Lightner, to further negotiate expenditures with Cornerstone Engineering Corporation.)

STAFF'S RECOMMENDATION:

Introduce the following ordinance:

(O-2009-44) INTRODUCED, TO BE ADOPTED ON TUESDAY,
JANUARY 20, 2009

Introduction of an Ordinance authorizing the Mayor to execute, for and on behalf of the City, an Agreement with Cornerstone Engineering Corporation, for professional engineering services, under the terms and conditions set forth in the Agreement, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the Mayor shall deem necessary from time to time in order to carry out the purposes and intent of this project and agreement;

Authorizing the expenditure of an amount not to exceed \$1,500 from Fund 79001, North University City Facilities Benefit Assessment (FBA), CIP-52-452.0, La Jolla Village Drive - Torrey Pines Road to Villa La Jolla, for the purpose of providing funds for the above referenced Project;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves;

Declaring that this activity was covered under a previously certified Mitigated Negative Declaration, LDR No. 42-0823, PTS No. 5264 by Resolution No. R-298807 dated January 26, 2004.

NOTE: 6 votes required pursuant to Section 99 of the City Charter.

STAFF SUPPORTING INFORMATION:

The La Jolla Village Drive - Torrey Pines Road to Villa La Jolla Drive project provides for a six (6) traffic-lane prime arterial with sidewalks and Class 2 bike lanes between North Torrey Pines Road and Gilman Drive and an eight (8) traffic-lane prime arterial from Gilman Drive to Villa La Jolla Drive. It also includes bridge widening and interchange improvements at the La Jolla Village Drive/Gilman Drive overcrossing. This project is consistent with both the La Jolla Shores and University City Community Plans.

This Second Amendment to the Consultant Agreement is for the purpose of drafting nine additional plan sheets due to changes made during construction, which need to be reflected into the record drawings (as-builts).

FISCAL CONSIDERATIONS:

City of San Diego Council previously authorized the transfer of funds within the North University Facilities Benefit Assessment Fund 79001, from CIP-52-362.0, Nobel Drive Extension into CIP-52-452.0, La Jolla Village Drive - Torrey Pines Road To Villa La Jolla. Funding for the Second Amendment to the Agreement in the amount of \$1,500 is available in Fund 79001, North University City Facilities Benefit Assessment Fund, CIP-52-452.0, La Jolla Village Drive - Torrey Pines Road To Villa La Jolla.

PREVIOUS COUNCIL COMMITTEE ACTION:

On March 29, 1993, per RR-281698 the City Council approved the Consultant Agreement with Fraser Engineering (Cornerstone Engineering), to provide professional engineering services for the design of the subject project which included the widening of La Jolla Village Drive from North Torrey Pines Road to Gilman Drive and the widening of the Gilman / La Jolla Village Drive bridge overcrossing.

On June 10, 2003, per RR-298063, the City Council approved a First Amendment to the Agreement with Cornerstone Engineering to provide updated plans and specifications and also to provide engineering support services during construction.

On May 10, 2004, per RR-299189, the City Council approved the transfer of funds into the CIP-52-452.0, La Jolla Village Drive Widening - Torrey Pines Road to Villa La Jolla, for the purpose of funding the final construction change order and related costs.

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency:	City of San Diego
Goals:	15% Voluntary (MBE/WBE/DBE/DVBE/OBE)
Sub-consultant Participation:	Previously Approved Agreement \$16,900 DBE (2.57%) and \$35,800 OBE (5.45%)
	For this amendment of \$1,500 the subconsultant participation is 0%.
Other:	Workforce Report Submitted - Equal Opportunity Plan required. Staff will monitor plan and adherence to Nondiscrimination Ordinance.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The University City Planning Group and La Jolla Community Planning Association were previously provided status updates and informational meetings of the project by the design team.

KEY STAKEHOLDERS:

City of San Diego, Cornerstone Engineering Corporation, University City Planning Group, La Jolla Shores Community Planning Association.

Boekamp/Jarrell

Aud. Cert. 2900186.

Staff: Marnell Gibson - (619) 533-5213
Ryan Kohut - Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:45 a.m. – 11:02 a.m.)

MOTION BY DEMAIO TO INTRODUCE. Second by Hueso. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

* ITEM-51: Ocean View Village Rezoning 10.4 Acres Located at 996 Otay Valley Road.
(Otay Mesa Community Plan Area. District 8.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 12/1/2008, Item 205,
Subitem D. (Council voted 8-0):

(O-2009-41 Cor. Copy) ADOPTED AS ORDINANCE O-19823
(New Series)

Changing 10.4 acres located at 996 Otay Valley Road, within the Otay Mesa Community Plan Area, in the City of San Diego, California, from the AR-1-1 zone into the RM-2-4, CN-1-2 and IL-2-1 zones, as defined by the San Diego Municipal Code Sections 131.0406, 131.0502, 131.0603; and repealing Ordinance No. O-10862 (New Series), adopted June 29, 1972, of the ordinances of the City of San Diego insofar as the same conflicts herewith.

NOTE: This item is not subject to the Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:05 a.m.)

CONSENT MOTION BY FAULCONER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Hueso. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.



ITEM-52: Proposed Ordinance Regulating the Sales of Vehicles in Certain Areas within the Public Right-of-Way. (Midway, Peninsula-Midway, Normal Heights, Greater North Park, City Heights, Chollas Creek, Lomita, Mountain View, Rancho Bernardo, Carmel Mountain Ranch, Clairemont Mesa, and Kearny Mesa Community Areas. Districts 2, 3, 4, 5, and 6.)

(See Manager's Report No. 04-085, Pilot Program Locations and City Attorney's Report dated January 14, 2003.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 12/2/2008, Item 330, Subitem A. (Council voted 8-0):

(O-2009-77) ADOPTED AS ORDINANCE O-19824 (New Series)

Amending Chapter 8, Article 6, Division 00, of the San Diego Municipal Code by adding Section 86.23.1, relating to authority to remove vehicles for sale in certain areas within the public right-of-way;

This ordinance makes changes to Chapter 8, Article 6 of the City of San Diego Municipal Code relating to authority to remove vehicles for sale by adding Section 86.23.1. This new section will prohibit the display of vehicles for sale on its streets. This Section authorizes the Mayor to take various actions when the use of public streets for the private sale of vehicles adversely affects communities in the City of San Diego.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:02 a.m. – 11:04 a.m.)

MOTION BY EMERALD TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Young. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

* ITEM-53: Amendments to Housing Trust Fund Ordinance. (Citywide.)

(See San Diego Housing Commission Report No. CCR-08-004.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 12/2/2008, Item 332, Subitem A. (Council voted 8-0):

(O-2009-72) ADOPTED AS ORDINANCE O-19825 (New Series)

Amending Chapter 9, Article 8, Division 5, of the San Diego Municipal Code, the San Diego Housing Trust Fund, in order to increase income limits for homebuyer programs by amending Sections 98.0503 and 98.0504;

This Ordinance amends San Diego Municipal Code Chapter 9, Article 8, Division 5, the San Diego Housing Trust Fund, in order to allow moderate income households to utilize homeownership programs funded by the Housing Trust Fund.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:05 a.m.)

CONSENT MOTION BY FAULCONER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Hueso. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

- * ITEM-54: City Heights Square Amendment Rezoning 4.17 Acres Located in the Block Bounded by University Avenue, 43rd Street, Fairmount Avenue and Polk Avenue. (City Heights Neighborhood of the Mid-City Communities Plan Area. District 3.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 12/2/2008, Item 344, Subitem C. (Council voted 8-0):

(O-2009-78) ADOPTED AS ORDINANCE O-19826 (New Series)

Changing 4.17 acres located in the block bounded by University Avenue, 43rd Street, Fairmount Avenue and Polk Avenue, within the City Heights Neighborhood of the Mid-City Communities Plan Area in the City of San Diego from the CT-2-3 and CU-2-3 Zones of the Central Urbanized Planned District, into the CU-2-4 Zone of the Central Urbanized Planned District, as defined by Chapter 15, Article 5, Division 2 of the San Diego Municipal Code; and repealing Ordinance No. O-18855 (New Series), adopted October 2, 2000, of the City of San Diego insofar as the same conflicts herewith.

NOTE: This item is not subject to the Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:05 a.m.)

CONSENT MOTION BY FAULCONER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Hueso. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

* ITEM-100: Request for Additional Funding for Palm Avenue Accelerated Sewer Project.
(Otay Mesa-Nestor Community Area. District 8.)

(See Engineering and Capital Projects Department's 11/26/2008, Executive Summary Sheet; "Revised" of same.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-715) ADOPTED AS RESOLUTION R-304566

Authorizing the City Auditor and Comptroller to transfer \$853,147 from Sewer Fund 41506, CIP-44-001.0, Annual Allocation-Sewer Main Replacements to Sewer Fund 41506, CIP-46-206.0 Annual Allocation-Accelerated Projects for the purpose of funding pending and future change orders;

Authorizing the additional expenditure of an amount not to exceed \$474,637.94 from Sewer Fund 41506, CIP-46-206.0, Annual Allocation-Accelerated Projects for the construction, contingency, and Project related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of an additional \$2,500 in property related cost from Sewer Fund 41506, CIP-46-206.0, Annual Allocation Accelerated Projects;

Authorizing the City Auditor and Comptroller is authorized upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves;

Declaring that this activity is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15282(k) as the repair and replacement of an existing pipeline less than one mile in length.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 12/3/2008, NR&C voted 3 to 0 to approve. (Councilmembers Peters, Faulconer, and Frye voted yea. Councilmember Atkins not present.)

SUPPORTING INFORMATION:

Palm Avenue Accelerated Sewer is part of the City of San Diego's continuing Annual Sewer Main Replacement Program. This project is located in the Otay Mesa/Nestor community. The contractor is Cass Construction, Inc. This project includes the replacement of approximately 1,980 linear feet of existing 10-inch vitrified clay sewer mains with 15-inch sewer mains. The streets affected by construction operations within this project are Palm Avenue from Saturn Boulevard to 16th Street as shown on the attached location map. Palm Avenue is a state highway and under the jurisdiction of CalTrans.

Additional funding is needed due to unforeseen conditions of excessive groundwater in the trenches, encountering a large electrical bank in direct conflict with the alignment, unstable soil conditions causing the trench width to be in excess of 22 feet wide in some places, and a highline system installed to discharge the excessive groundwater to a downstream manhole. These conditions required a revised alignment and night work for the duration of the project. In addition, CalTrans pavement restoration requirements are more stringent and costly exceeding the amount allocated for repaving Palm Avenue.

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency: City of San Diego-Prevailing wages do not apply to this contract.

Goals: The original subcontracting goals were as follows: 10% Mandatory Subcontractor Participation Goal, 3% Advisory Participation Goal Disadvantaged Business Enterprise (DBE), 1% Advisory Participation Goal Disabled Veteran Business Enterprise (DVBE), 6% Advisory Participation Goal Other Business Enterprise (OBE)

Other: Staff will continue to monitor adherence to the Nondiscrimination Ordinance and compliance with SCOPe on all pending and future change orders.

FISCAL CONSIDERATIONS:

The total estimated cost of this project is \$3,288,622.94. Enterprise funding of \$3,288,622.94 is available in CIP-46-206.0, Annual Allocation - Accelerated Projects, Fund 41506, Sewer, of which \$853,147 will be transferred from CIP-44-001.0, Annual Allocation - Sewer Main Replacements, Fund 41506, Sewer, for this purpose.

However, \$378,509.06 of the total \$853,147 requested was part of the previously authorized amount to expend. Therefore, we are requesting the difference of \$474,637.94 to be authorized to expend. The project cost may be reimbursed approximately 80% by current or future debt financing. No future funding is anticipated for this project.

PREVIOUS COUNCIL AND COMMITTEE ACTIONS:

Council approved this project as well as previous actions for labor and other acquisition costs related to the exchange of easements on June 7, 2004, (R-299285) and October 18, 2007 (R-303054) for a total of \$2,805,985, and September 15, 2003 (R-298365) for \$8,000. NR&C voted 3-0 to approve on June 20, 2007. The Committee on Natural Resources and Culture on December 3, 2008, consent motion by Councilmember Faulconer, second by Council President Peters. Vote to approve 3-0.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On October 9, 2002, Palm Avenue Accelerated Sewer Project was presented to the Otay Mesa/Nestor Planning Committee. Residents and businesses were notified one month before construction began by the City's Engineering Department and again, ten (10) days before construction began by the Contractor through hand distribution of notices.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Residents and businesses in the area will encounter minor impacts during construction. After completion, residents will experience improved reliability of the sewer system.

Boekamp/Jarrell

Aud. Cert. 2900397.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:05 a.m.)

CONSENT MOTION BY FAULCONER TO ADOPT. Second by Hueso. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

- * ITEM-101: California Department of Conservation Recycling Grant/Recycling for Fiscal Year 2009-2013.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-520) ADOPTED AS RESOLUTION R-304567

Authorizing the Mayor, or his designee, to apply for, negotiate with, execute Agreements for, and accept grant funds from the California Department of Conservation - Division of Recycling with one to five-year terms for the implementation and/or enhancement of recycling programs by purchasing and installing recycling receptacles and by creating, producing, and distributing educational outreach materials for Fiscal Years 2009/2010 through and including Fiscal Year 2013/2014;

Designating the Environmental Services Department Director, or the Deputy Director, as the person authorized, for and on behalf of the City, to conduct all grant negotiations and execute all grant documents, including but not limited to: applications, agreements, amendments, and payment requests necessary to secure grant funding and to carry out and administer the City's obligations, responsibilities, and duties, under the terms and conditions of the grant(s) for Fiscal Year 2009/2010 through and including Fiscal Year 2013/2014;

Authorizing the City Comptroller, contingent on the City's execution of grant agreement(s), to accept, appropriate, and expend grant funds and to establish a separate fund to track expenditures and receive grant-related reimbursements for eligible expenditures;

Declaring that the City's grant application and acceptance activity is not a project and therefore is not subject to the California Environment Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(3); and that installing recycling receptacles and providing recycling educational programs is categorically exempt from CEQA pursuant to CEQA Guidelines Section 15311.

STAFF SUPPORTING INFORMATION:

This proposed project will include pilot programs to implement a comprehensive recycling and litter reduction program throughout different areas of the City of San Diego.

This project falls under one of the categories contained within the California Department of Conservation (DOC), Division of Recycling (DOR) Beverage Container Recycling Grant Program. The DOR administers the California Beverage Container Recycling and Litter Reduction Act (Act) which governs the recycling of California Redemption Value (CRV) beverage containers. It provides up to \$1.5 million annually in grant funds to promote increased recycling of beverage containers throughout California, pursuant to Public Resources Code (PRC), Division 12.1, Chapter 7, Section 14581(a)(6). The DOR administers Beverage Container Recycling Grant funding to assist organizations with establishing convenient beverage container recycling and litter abatement projects, and to encourage market development and expansion activities for beverage container materials. Eligible recycling and litter reduction projects include parks/recreational areas, entertainment/hospitality venues, sporting complexes, multi-family dwellings, and litter prevention and reduction.

This proposed project would include the purchasing and distribution of special recycling receptacles, signage, and a comprehensive public education and outreach campaign to promote and enhance recycling and so assist in the implementation of measures to achieve compliance with the City Recycling Ordinance and State waste diversion requirements (AB 939, AB32, SB 1016). The target areas are all multi-family residential, commercial and public space areas throughout the City that have a need for recycling infrastructure, and will serve as pilot programs and models for future expansion of the City's efforts to extend recycling to all its residents and visitors. The program will significantly increase general awareness about recycling, increase participation in recycling programs in the City, assist the City in meeting state mandated recycling goals, and project and solidify, nationally and internationally, the image of the City of San Diego as an environmentally responsible city.

FISCAL CONSIDERATIONS:

ESD is eligible to apply for \$180,000 from a DOC funded grant per year pursuant to Public Resources Code (PCR), Division 12.1, Chapter 7, Section 14581 (a)(6). ESD will be responsible for approximately \$100,000 in matching funds, from the Recycling Enterprise Fund. These matching funds are budgeted in ESD's FY09 budget and will be budgeted in FY 10, 11, 12 and 13 budgets, contingent on Council approval of the corresponding budgets. There is no requirement to continue grant-funded activities or expenditures after grant funds are depleted or terminated, and no additional positions will be requested in grant applications.

PREVIOUS COUNCIL COMMITTEE ACTION:

As a result of previous Council approvals, in 2000 ESD received \$6,840,000 from a DOC grant to expand automated recycling collections to a minimum of 190,000 City of San Diego single-family homes, which allowed for the City's expansion of the very successful curbside recycling program.

In 2004, ESD worked in a partnership with Keep California Beautiful on a \$50,000 grant they received for purchasing recycling containers for Balboa Park, and Horton Plaza and UTC shopping malls.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The purpose of these grants will be to enhance or implement new recycling programs throughout the City of San Diego; to develop and conduct community outreach and educational campaigns; and to facilitate compliance with the City Recycling Ordinance and assist the City in its efforts to comply with current and future State-mandated diversion rates, future AB32 requirements and any other future legislation where waste diversion through recycling programs is required. The expectation is that the City will benefit from the program by:

1. Facilitating the success of recycling programs in multi-family dwelling complexes by providing convenient, in-unit containers;
2. Creating recycling opportunities throughout the City by having public space recycling containers and identification signs;
3. Facilitating transportation of recyclables from individual units to central recycling areas;
4. Providing recycling opportunities in the City's parks and waterfront areas;

KEY STAKEHOLDERS:

Different stakeholder groups will be involved in specific programs. The goal is to increase the opportunity to recycle and the convenience of recycling in all segments of the City, from commercial to residential, from leisure areas to working environments, bringing them all together in our waste reduction, recycling and greenhouse gas emission reduction efforts. Individual program evaluations will be designed and conducted according to each grant specification, aiming to assess the program's strengths and weaknesses and to address residents' concerns and suggestions.

Gonaver/Heap

Aud. Cert. 2900410.

Staff: Steven Fontana - (858) 492-5077
Grace C. Lowenberg - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:05 a.m.)

CONSENT MOTION BY FAULCONER TO ADOPT. Second by Hueso. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

* ITEM-102: Regional Command and Control Communications (3Cs) Project Management Services (Grant Funded Expenditures).

(See memorandum from Ramone Lewis dated 12/12/2008.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-709) ADOPTED AS RESOLUTION R-304568

Authorizing the City Comptroller to expend a maximum of \$1 million in grant funds for consultant services, including project management and technical support of the project;

Declaring that the City comply with all City and Federal requirements, to recruit for and select consultant(s);

Authorizing the Mayor, on behalf of the City, to enter into Agreement(s) with the selected consultant(s) for the services and funding described;

Authorizing the Chief of Police to direct and oversee the selection(s) and agreement(s), in compliance with the Grant Program.

STAFF SUPPORTING INFORMATION:

On August 6, 2008, in Resolution R-303987, Council authorized City to accept and expend a federal grant of \$6 million to continue the Regional Command and Control Communications (3Cs) Program. 3Cs strives to connect dispatch/emergency operations centers across the far southwest region. By linking public safety agencies via a high-speed, secure hybrid microwave/fiber optic network, 3Cs plans to incorporate all local public safety dispatch and emergency centers within the coverage area at a pace of 15 to 20 agencies a year. Additional functionality in the 3Cs network includes the ability to incorporate specialized video feeds (aerial, CCTV), and transporting public safety regional applications. By incorporating 3Cs technology, responding agencies will have a fast, reliable means to contact any agency in the area, improving the ability to successfully manage any incident.

The purpose of this action is to approve grant expenditures for the continuing development, implementation, and refinement of the 3Cs network via project management and technical consulting services.

City wishes to select consultant(s) in compliance with City and Federal regulations in order to contract for project management and technical services related to the installation of phases 3C through 3G of the overall project plan for a period of up to the expiration of the COPS 2007 Technology grant and not to exceed One Million Dollars (\$1,000,000).

EEO:

This Agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. O-18173, Sections 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

FISCAL CONSIDERATIONS:

All costs of this expenditure are grant funded. No City funds are required. There is no requirement to continue grant-funded activities, expenditures or programs after grant funds are depleted or terminated. Federal law requires that these funds supplement and not supplant funds otherwise available for law enforcement.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

- On August 6, 2008, in Resolution R-303987, Council authorized City to accept and expend a federal grant of \$6 million to continue the Regional Command and Control Communications (3Cs) Program.
- On August 6, 2008, in Resolution R-303993, Council authorized City to enter into an agreement for Amendment #1 to the Agreement between the City of San Diego and Enforcement Support Agency for project management services and technical support for the Regional 3Cs Project. This contract will expire in April 2009.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Consultant(s) to be selected under this current action to provide project management and technical services.

Lansdowne/Olen

Aud. Cert. 2900346.

Staff: Sara Diaz - (619) 515-2753
John C. Hemmerling - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:05 a.m.)

CONSENT MOTION BY FAULCONER TO ADOPT. Second by Hueso. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

* ITEM-103: Regional Command and Control Communications (3Cs) Video Conferencing Hardware (Grant Funded Expenditure).

(See memorandum from Ramon Lewis dated 12/12/2008.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-708) ADOPTED AS RESOLUTION R-304569

Authorizing the City Comptroller to expend a maximum of \$1 million in grant funds to purchase video teleconferencing equipment from Providea, Inc., as required for this grant-funded project;

Declaring that the personnel of departments of the City, including but limited to San Diego Police Department (SDPD), Purchasing and Contracting, Comptroller, and City Treasurer to engage in all procedures appropriate and necessary to successfully accomplish this transaction; and authorizing all aspects of the purchase and acquisition, including but not limited to specifications, ordering, receiving, and paying for this purchase.

STAFF SUPPORTING INFORMATION:

On August 6, 2008, in Resolution R-303987, Council authorized City to accept and expend a Federal Grant of \$6 million to continue the Regional Command and Control Communications (3Cs) Program. 3Cs strives to connect dispatch/emergency operations centers across the far southwest region. By linking public safety agencies via a high-speed, secure hybrid microwave/fiber optic network, 3Cs plans to incorporate all local public safety dispatch and emergency centers within the coverage area at a pace of 15 to 20 agencies a year. Additional functionality in the 3Cs network includes the ability to incorporate specialized video feeds (aerial, CCTV), and transporting public safety regional applications. By incorporating 3Cs technology, responding agencies will have a fast, reliable means to contact any agency in the area, improving the ability to successfully manage any incident.

City wishes to engage Providea, Inc., to provide video teleconferencing for a period of up to the expiration of the COPS 2007 Technology grant and not to exceed One Million Dollars (\$1,000,000). This vendor was selected by competitive proposal process conducted by City Communications.

EEO:

This agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. O-18173, Sections 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

FISCAL CONSIDERATIONS:

All costs of this expenditure are grant funded. No City funds are required. There is no requirement to continue grant-funded activities, expenditures or programs after grant funds are depleted or terminated. Federal law requires that these funds supplement and not supplant funds otherwise available for law enforcement.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

- On August 6, 2008, in Resolution R-303987, Council authorized City to accept and expend a federal grant of \$6 million to continue the Regional Command and Control Communications (3Cs) Program.
- On October 24, 2006, in Resolution R-301995, Council authorized City to expend a maximum of \$1 million for video conferencing equipment provided by a vendor selected through a competitive bid process.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Vendor to be selected under this current action to provide project management and technical services.

Lansdowne/Olen

Aud. Cert. 2900347.

Staff: Sara Diaz - (619) 515-2753
John C. Hemmerling - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:05 a.m.)

CONSENT MOTION BY FAULCONER TO ADOPT. Second by Hueso. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

- * ITEM-104: Regional Command and Control Communications (3Cs) Microwave Communications Hardware and Services (Grant Funded Expenditure).

(See memorandum from Ramon Lewis dated 12/12/2008.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-710) ADOPTED AS RESOLUTION R-304570

Authorizing the City Comptroller, to appropriate and expend a maximum of \$3.5 million in grant funds to purchase Microwave Communications Hardware and Engineering Services from Harris/Stratex as required for this grant-funded project;

Declaring that the personnel of departments of the City, including but limited to the San Diego Police Department (SDPD), Purchasing and Contracting, Comptroller, and City Treasurer to engage in all procedures appropriate and necessary to successfully accomplish this transaction; and authorizing all aspects of the purchase and acquisition, including but not limited to specifications, ordering, receiving, and paying for this purchase.

STAFF SUPPORTING INFORMATION:

On August 6, 2008, in Resolution R-303987, Council authorized City to accept and expend a federal grant of \$6 million to continue the Regional Command and Control Communications (3Cs) Program. 3Cs strives to connect dispatch/emergency operations centers across the far southwest region. By linking public safety agencies via a high-speed, secure hybrid microwave/fiber optic network, 3Cs plans to incorporate all local public safety dispatch and emergency centers within the coverage area at a pace of 15 to 20 agencies a year. Additional functionality in the 3Cs network includes the ability to incorporate specialized video feeds (aerial, CCTV), and transporting public safety regional applications. By incorporating 3Cs technology, responding agencies will have a fast, reliable means to contact any agency in the area, improving the ability to successfully manage any incident.

City wishes to engage Harris/Stratex Corporation to provide communications hardware and engineering services related to the installation of phases 3C through 3G of the overall project plan for a period of up to the expiration of the COPS 2007 Technology grant and not to exceed Three Million Five Hundred Thousand Dollars (\$3,500,000). A sole source justification is on file with City of San Diego Purchasing Department (Case Number 1907).

EEO:

This Agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. O-18173, Sections 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

FISCAL CONSIDERATIONS:

All costs of this expenditure are grant funded. No City funds are required. There is no requirement to continue grant-funded activities, expenditures or programs after grant funds are depleted or terminated. Federal law requires that these funds supplement and not supplant funds otherwise available for law enforcement.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

- On August 6, 2008, in Resolution R-303987, Council authorized City to accept and expend a federal grant of \$6 million to continue the Regional Command and Control Communications (3Cs) Program.
- On July 18, 2006, in Resolution R-301636, Council authorized City to expend a maximum of \$5 million with Harris Corporation for microwave equipment that serves as the infrastructure for the 3Cs network.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Vendor to be selected under this current action to provide project management and technical services.

Lansdowne/Olen

Aud. Cert. 2900348.

Staff: Sara Diaz - (619) 515-2753
John C. Hemmerling- Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:05 a.m.)

CONSENT MOTION BY FAULCONER TO ADOPT. Second by Hueso. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.



ITEM-105: Authorization to Sell City-Owned Excess Real Estate and Approve Broker Commission. (Del Mar Heights Community Area. District 1.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-436) ADOPTED WITH DIRECTION AS RESOLUTION
R-304571

Declaring that certain real property (Property) owned in fee by the City, located at Lot 10 in Block 18 of Del Mar Heights, and more particularly described in the Property Information Sheet, is excess City property and may be sold;

Declaring the Property may only be sold for a price equal to or greater than Five Hundred Thousand Dollars (\$500,000);

Declaring that the Mayor, or his designee, shall have the authorization for one year;

Authorizing and directing the Mayor, or his designee, to sell the property through negotiation, public auction, sealed bids, or any combination of such methods, in his discretion;

Authorizing the Mayor, or his designee, to execute and deliver, on behalf of the City, a purchase and sale agreement, grant deed, and all other agreements and documents necessary and on terms and conditions deemed by the Mayor, or his designee, to be reasonable and in the best interests of the City to consummate the sale;

Authorizing and directing the City Comptroller to accept the proceeds of the sale of the Property, net of brokerage commissions and other costs of selling the Property, and deposit them into the Capital Outlay Fund 302453;

Declaring that if after attempting to sell the Property at the minimum price specified herein, the Mayor, or his designee, determines that the Property cannot be sold at or above such price, the Mayor shall seek review and additional direction from the Council as to the disposition of the Property.

As part of an overall portfolio management plan for the City's Real Estate Assets, the Mayor's staff is reviewing the City's property inventory to determine which properties are no longer needed and whose disposition will provide a greater public benefit. A City-owned property may be designated for disposition if:

- The property is not currently used by a City department or supports a municipal function.
- The property is vacant and has no foreseeable use by the City.
- The property is a non-performing or under-performing asset and greater value can be generated by its sale.

The referenced property has been analyzed and determined by the Mayor's staff to be excess to City needs and would best serve the City and its citizens if sold. The Property Information Summary Package contains all pertinent information about the property including its value as determined by a current appraisal and the reason for recommending its sale. The benefits to the City of disposing of these surplus properties are as follows:

- The City will be relieved of potential liabilities and the cost of maintaining property that does not generate income or provide public benefit.
- Property tax increment will be created by returning the properties to the tax rolls.
- Stimulation of the economy by providing opportunities for private sector investment.
- Generation of revenue for the Capital Outlay Fund.

Attachment "A" is a legal opinion from the City Attorney stating that by Council Policy and Municipal Code, the Mayor must take every property intended for sale to Council, justify each sale, and seek direction as to how the property will be sold. Because all questions regarding the right to sell and manner of sale will be predetermined by an enabling resolution, the proposed process for the sale of the City's properties does not conflict with the Municipal Code and the City Charter.

A Request for Proposal (RFP) for residential brokerage services was issued through the City's Purchasing Department. Each proposal received was rated on its technical merit by an evaluation committee. The technical scores were then compared with the pricing proposal to select the brokerage firm to market this property.

This action requests approval of the best value proposal which do reflect, in this case, the lowest commission percentage that was received through the bid process described above for the property. Realty Executives was selected as low bidder at 6%.

FISCAL CONSIDERATIONS:

All proceeds from the sale of the properties, net of costs related to their sale, will be deposited in the Capital Outlay Fund as per City Charter Article VII. The total proceeds from these sales are estimated to be \$500,000.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Torrey Pines Community Group approved the sale of the excess City land at their meeting of November 13, 2008.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The key stakeholders would be the City of San Diego which will benefit by: receipt of the sale proceeds; relief from future liability and maintenance expenses associated with the ownership of this property; and additional property taxes from the return of these properties to the tax roles.

Barwick/Anderson

Staff: Lane Mackenzie - (619) 236-6050
Todd Bradley - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:04 a.m. – 11:59 a.m.)

MOTION BY DEMAIO TO APPROVE THE INITIATION OF THE SALE PROCESS FOR THE PROPERTY. Second by Frye. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-nay, Frye-nay, Emerald-nay, Hueso-yea.

MOTION BY DEMAIO TO REFER TO THE BUDGET COMMITTEE AND HAVE A DISCUSSION ABOUT THE USE OF ASSET PROCEEDS, AND BRING BACK TO COUNCIL ONCE QUESTIONS ARE ADDRESSED. SHOULD THE PROPERTY SELL, THE PROCEEDS WILL BE HELD UNTIL A COMPREHENSIVE PLAN IS BROUGHT TO COUNCIL. Second by Frye. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueson-yea.

- * ITEM-106: Transfer of Funds for Martin Luther King, Jr. Community Park – Play Area Upgrades. (Southeastern San Diego Community Area. District 4.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-705 Cor. Copy) ADOPTED AS RESOLUTION R-304572

Authorizing the transfer of \$104,000 from CIP-37-064.0, Americans with Disability Act (ADA) Improvements Annual Allocation, Fund No. 302453 Capital Outlay to CIP-29-951.0, Martin Luther King, Jr. Community Park-Play Area Upgrades, Fund No. 302453 Capital Outlay;

Authorizing the City Comptroller to de-appropriate \$500,000 from CIP-29-951.0, Martin Luther King Jr., Park-Play Area Upgrades, Fund No. 79511, South East San Diego Urban Community, for the purpose of revising the CIP appropriation to reconcile to the Fiscal Year 2009 CIP project sheet;

Authorizing the City Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves;

Declaring that this project is exempt from California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301.

STAFF SUPPORTING INFORMATION:

Martin Luther King, Jr. Community Park is located in the Southeastern Community, and the park was developed in the 1970's and 1980's, except for the recent construction of the senior center in 2006. The existing park include sport fields, tennis courts, swimming pool, recreation and senior center buildings, two tot lot playgrounds, turf, and landscaping.

The existing playground equipment is outdated and needs upgrading to comply with state and federal safety and accessibility guidelines. This project proposes improvements and upgrades to one of the tot lots that is located near the park entrance off Skyline Drive and adjacent to the pool facility. This project will include the replacement of playground equipment, upgrade of play area and accessibility improvements.

EQUAL OPPORTUNITY CONTRACTING:

The Martin Luther King Jr., Community Park-Play Area Upgrades will be awarded under the Mayor's authority to award contracts when the project and funding have been approved by Council. Prior to award of any contract, a work force report, and if necessary, an Equal Opportunity Employment Plan shall be submitted. EOC staff will evaluate the bidder's compliance with contract goals and the good faith effort. Failure to comply with the programs requirements will lead to the bid being declared non-responsive.

Funding Agency: City of San Diego
Prevailing Wages: State prevailing wage does not apply.

FISCAL CONSIDERATIONS:

The total project cost is estimated at \$604,000, the funds of \$500,000 are available from the Southeastern DIF Fund and \$104,000 from Americans with Disability Act (ADA) Improvements Annual Allocation. Additional operating costs are not anticipated as a result of these upgrade improvements. The CIP-29-951.0 should have a total appropriation of \$500,000 from the Southeastern Development Impact Fee Fund, which was approved by Resolution R-302747 on June 19, 2007. However, an additional \$500,000 was inadvertently downloaded to this CIP-29-951.0 as part of the FY09 CIP Budget Download. The 1472 action includes a request to decrease the allotted balance by \$500,000 to accurately reflect a total project cost of \$604,000.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Resolution R-302747 adopted on June 27, 2007, in the amount of \$500,000, Fund No. 79511, Southeastern Development Impact Fee (DIF).

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

As part of the Park & Recreation Department review process, this project was presented to the Martin Luther King Recreation Council upon preparation of construction plans.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Martin Luther King Recreation Council

Community members and park visitors

Boekamp/Jarrell

Aud. Cert. 2900399.

Staff: Darren Greenhalgh - (619) 533-6600
Shannon Thomas - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:05 a.m.)

CONSENT MOTION BY FAULCONER TO ADOPT. Second by Hueso. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

* ITEM-107: Appointments to the Casa De La Playa Geologic Hazard Abatement District.
(Ocean Beach Community Area. District 2.)

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-479) ADOPTED AS RESOLUTION R-304573

Appointing and confirming the following five property owners within the District as directors of the District for terms of four years: Douglas Fettel; Dr. James Ellis; Thomas Bryan; Philip Golden Kincaid; and Steven Teixeira, pursuant to Elections Code Section 1780(f)(1), and Public Resources Code Sections 26583 and 26567.

SUPPORTING INFORMATION:

The Casa De La Playa Geologic Hazard Abatement District (District) was formed in September 1997; this special assessment district was formed to allow property owners to finance a seawall to protect property from eroding cliffs found to be a hazardous condition by geologists, without creating a financial obligation of the City. The District was formed to specifically address the geologic hazard of coastal bluff retreat fronting the Casa De La Playa condominium complex. The complex was in jeopardy of being severely damaged by further erosion resulting from high tides, storm surf and/or heavy winter rains.

At the time the District was formed in 1997, five property owners in the District were appointed to its Board. All property owners who were members of the Board have either passed away or moved away. Pursuant to the elections code statutes, the Board must now be appointed by City Council. This action is necessary for the Board to make decisions with respect to maintenance of the seawall.

DISCUSSION: Casa De La Playa is a multi-unit condominium complex located at the top of a coastal bluff at the west end of Pescadero Avenue in Ocean Beach. The condominium is a single structure, containing 24 living areas and garages. In response to a request from the property owners in 1997, a Geologic Hazard Abatement District (Abatement District) was formed to specifically address coastal bluff erosion/retreat. Geologists informed the Casa De La Playa property owners that if the hazardous condition which existed at the coastal bluff fronting their property was not quickly abated, then the condominium complex was in jeopardy of being severely damaged by further erosion resulting from high tides, storm surf and/or heavy winter rains.

An Abatement District is authorized to independently finance improvements through the Improvement Act of 1911 (commencing with Section 5000 of the California Streets and Highways Code), the Municipal Improvement Act of 1913 (commencing with Section 10000 of the California Streets and Highways Code), and the Improvement Bond Act of 1915 (commencing with Section 8500 of the California Streets and Highways Code). An Abatement District may also accept financial or other assistance from any public or private source and may borrow funds from a local agency, and the state and federal governments. Here, the Casa De La Playa property owners formed the District in 1997 and subsequently issued bonds to finance a seawall to protect their property. When the District was formed, City Council appointed five property owners from Casa De La Playa to the Board of the District.

Appointments to the Board are governed by the Uniform District Election Law (Cal. Elections Code Section 10500 et seq.). Generally, vacancies on the Board are filled by appointment by the Board, or a call by the Board for an election. However, in the case of the District, all members of the Board have either passed away or moved away. Therefore, there is not a single member of the Board who can appoint other members, nor call for an election of Board members. Accordingly, state law requires appointments to the Board via City Council action. (California Government Code Section 1780(f)(1)).

The Board vacancies need to be filled for the District to conduct necessary business such as improvements to the seawall in order to protect private property, public safety, and welfare. Reconstituting the Board will benefit the residents in the area, and the Board will be able to assist with matters such as delinquent assessment payments by District residents. The five residents to be appointed are:

<u>Douglas Fettel</u> 4878 Pescadero Ave. #203 San Diego, CA 92107	<u>Steven Teixeira</u> 4878 Pescadero Ave. #404 San Diego, CA 92107	<u>Thomas Bryan</u> 4878 Pescadero Ave. #302 San Diego, CA 92107
<u>Philip Golden Kincaid</u> 4878 Pescadero Ave. #102 San Diego, CA 92107	<u>Dr. James Ellis</u> Mailing Address: 1301 South Grade Road Alpine, CA 91901	Property Address: 4878 Pescadero Ave. #206 San Diego, CA 92107

FISCAL CONSIDERATIONS: No fiscal impact.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Casa De La Playa Geologic Hazard Abatement District (District) formed and five property owners were appointed as Directors of the District via Resolution R-289251 adopted on September 30, 1997; Resolution R-289332 adopted on October 28, 1997, granted consent for the formation of a special assessment district to finance the construction of a seawall in Ocean Beach.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key stakeholders are property owners in Ocean Beach in the Casa De La Playa Geologic Hazard Abatement District.

Kaelin

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:05 a.m.)

CONSENT MOTION BY FAULCONER TO ADOPT. Second by Hueso. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

* ITEM-108: Alvarado Hospital Day.

COUNCILMEMBER EMERALD’S RECOMMENDATION:

Adopt the following resolution, which was prepared by former Council President Pro Tem Madaffer and it is now sponsored by Councilmember Emerald:

(R-2009-693) ADOPTED AS RESOLUTION R-304574

Proclaiming December 6, 2008, to be “Alvarado Hospital Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:05 a.m.)

CONSENT MOTION BY FAULCONER TO ADOPT. Second by Hueso. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

* ITEM-109: Al Shelden Day.

COUNCILMEMBER EMERALD'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-732) ADOPTED AS RESOLUTION R-304575

Proclaiming January 8, 2009, to be "Al Shelden Day".

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:05 a.m.)

CONSENT MOTION BY FAULCONER TO ADOPT. Second by Hueso. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

* ITEM-110: Excusing Councilmember Frye from Attending the November 17, 2008, City Council Meeting and November 19, 2008, Rules Committee Meeting.

COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-714) ADOPTED AS RESOLUTION R-304576

Excusing Councilmember Donna Frye from attending the regularly scheduled City Council meeting of November 17, 2008, and the regularly scheduled Rules Committee meeting of November 19, 2008.

NOTE: This item is not subject to the Mayor's veto.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:05 a.m.)

CONSENT MOTION BY FAULCONER TO ADOPT. Second by Hueso. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

* ITEM-111: Declaring a Continued State of Emergency Regarding the Wildfires.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-430) ADOPTED AS RESOLUTION R-304576

Declaring a continued state of emergency to exist in the City of San Diego due to the wildfires which began on October 21, 2007, pursuant to California Government Code Section 8630;

Declaring that the measures previously taken by the City Council in Resolution No. R-303098 shall continue to have full force and effect.

FILE LOCATION: GEN'L – State of Emergency Regarding the Wildfires

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:05 a.m.)

CONSENT MOTION BY FAULCONER TO ADOPT. Second by Hueso. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

* ITEM-112: State of Local Emergency Declaration Regarding the Landslide on Mount Soledad.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-606) ADOPTED AS RESOLUTION R-304578

Declaring a continued state of emergency to persist relative to the landslide on Mount Soledad, pursuant to California Government Code Section 8630;

Declaring that the measures previously authorized by the City Council in Resolution No. R-303041 shall continue to have full force and effect.

FILE LOCATION: GEN'L- State of Emergency Regarding the Landslide on Mount Soledad

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:05 a.m.)

CONSENT MOTION BY FAULCONER TO ADOPT. Second by Hueso. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

* ITEM-113: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico. (District 8.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-582) ADOPTED AS RESOLUTION R-304579

Declaring a Continued State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico.

FILE LOCATION: GEN'L – State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:05 a.m.)

CONSENT MOTION BY FAULCONER TO ADOPT. Second by Hueso. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

- * ITEM-114: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-614) ADOPTED AS RESOLUTION R-304580

Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego.

FILE LOCATION: GEN'L – State of Emergency Due to Severe Shortage of Affordable Housing in the City

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:05 a.m.)

CONSENT MOTION BY FAULCONER TO ADOPT. Second by Hueso. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.



ITEM-330: Continued Retention of Hawkins Delafield & Wood LLP as City General Disclosure Counsel.

CITY ATTORNEY'S RECOMMENDATION:

Introduce the following ordinance:

(O-2009-80 Rev. Cor. Copy) INTRODUCED WITH DIRECTION, TO BE
ADOPTED TUESDAY, JANUARY 20, 2008

Introduction of an Ordinance authorizing the Mayor, or his designee, to execute, for and on behalf of the City of San Diego, an Agreement with Hawkins Delafield and Wood LLP for continued retention as City General Disclosure Counsel;

Declaring that in accordance with Charter Section 99, this contract may extend beyond five years;

Authorizing the City Comptroller to expend up to an additional \$180,000 for General Disclosure Counsel Services allocated on an FTE basis.

NOTE: 6 votes required pursuant to Section 99 of the City Charter.

SUPPORTING INFORMATION:

Vinson & Elkin LLP recommended in their Report entitled "The City of San Diego, California's Disclosures of Obligation to Fund the San Diego City Employees' Retirement System and Related Disclosure Practices 1996-2004 with Recommended Changes to the Municipal Code" dated September 16, 2004 (Report), that the City retain a law firm to serve as the City's general disclosure counsel in order to provide for "continuity in the City's disclosure materials and a greater accountability on the part of disclosure counsel."

In November 11, 2004, the City Council adopted Ordinance Number O-19320, which added Chapter 2, Article 2, Division 41, Securities Disclosure, to the San Diego Municipal Code.

In March 2004, the City retained the law firm of Hawkins, Delafield & Wood LLP (Hawkins) to serve as the City's general disclosure counsel. In that capacity, Hawkins has provided expert securities law advice to City staff regarding the requirements of securities laws for private placements and public offerings, continuing disclosure agreements and other disclosure matters. In addition, Hawkins has facilitated the training of City officials and staff with regard to the requirements of the federal securities laws.

Finally, Hawkins also participates as a non-voting member of the Disclosure Practice Working Group under the requirements of San Diego Municipal Code, Chapter 2, Article 2, Division 41, as amended.

In April 2008, the Office of the City Attorney sent a Request for Qualifications for Bond Counsel and General Disclosure Counsel Services to 50 national and local firms. Thirteen firms replied, were evaluated, and were placed on an eligibility list. Hawkins was selected as the firm most knowledgeable and appropriate given the needs of the City to be the City's General Disclosure Counsel.

Hawkins was first retained in March 2004 and three amendments (see Previous Council and/or Committee Action below) have been made to the contract. Charter Section 99 requires that contracts extending beyond a period of five years must be authorized by Ordinance adopted by a two-thirds' majority vote. We expect that Hawkins will provide services exceeding five years. Therefore, we are requesting this continued retention be authorized by Ordinance.

FISCAL CONSIDERATIONS:

The City shall continue to compensate Hawkins Delafield & Wood LLP based on its hourly rates for disclosure counsel services. This continued retention authorizes an additional \$180,000, for a cumulative amount of \$1,430,000. As with previous authorizations, the amount will be allocated on a FTE basis approximately 75% to the General Fund and approximately 25% across the Enterprise Funds.

As of November 6, 2008, there are no outstanding invoices for Hawkins and remaining authorized funding is \$44,695. The November invoice for October services is expected to be in the \$20,000 range.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

The original contract was on a City Manager Action for \$100,000 (Contract Number C-12680, dated May 18, 2004, as filed in the Office of the City Clerk, AC #2401075).

The first amendment was also on a City Manager Action for \$150,000 (Contract Number C-13096, dated December 3, 2004, as filed in the Office of the City Clerk, AC # 2500533).

The second amendment for continued retention authorized an additional \$500,000 and was adopted by the City Council on March 8, 2005, as Resolution Number R-300206 (AC #2500806) on a 7-0 unanimous vote, with Councilmember Young absent.

The third amendment for continued retention authorized an additional \$500,000 and was adopted by the City Council on December 4, 2007, as Ordinance Number O-19695 (AC #2800285) on a 6-1 vote, with Councilmember Hueso voting “No” and Councilmember Maienschein absent.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Hawkins, Delafield & Wood LLP

All City Departments

Tomanek

Aud. Cert. 2900404.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 3:26 p.m. – 3:48 p.m.)

MOTION BY DEMAIO TO INTRODUCE WITH DIRECTION THAT THE 75%/25% SPLIT BE USED FOR ANY COSTS THAT CANNOT BE ALLOCATED TO A WORK ORDER IN SUPPORT OF ONE FUND OR THE OTHER; AND ONCE THE CONTRACT NEARS THE EXPIRATION, THE ITEM OF COST ALLOCATION SHOULD COME BACK TO THE BUDGET COMMITTEE BEFORE AN ADDITIONAL REQUEST FOR CONTRACT EXTENSION IS MADE TO THE CITY COUNCIL. Second by Frye. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.



ITEM-331: Casa Mira View, Project No. 91647. An application for a Rezone to change the zone of the property, an Easement Vacation, Vesting Tentative Map, Planned Development Permit and Site Development Permit to allow the subdivision and development on a 41.31 acre site at 11195 Westview Parkway on six parcels along the east side of Westview Parkway between Dauntless Street and Mira Mesa Boulevard. (Mira Mesa Community Plan Area. District 5.)

Matter of approving, conditionally approving, modifying or denying an application for a Rezone to change the zone of the property from the RM-3-7 Zone to the RM-3-8 Zone, an Easement Vacation, Vesting Tentative Map, Planned Development Permit and Site Development Permit to allow the subdivision and development of 1,848 condominium dwelling units, three parking structures, recreation amenities, landscaping, and minor public improvements on a 41.31 acre site at 11195 Westview Parkway on six parcels along the east side of Westview Parkway between Dauntless Street and Mira Mesa Boulevard in the Mira Mesa community.

* Unless otherwise noticed or stated on the record at the hearing, if an ordinance is approved and introduced by the City Council, it will automatically be scheduled for a hearing by the City Council for final passage at 10:00 a.m. on the Tuesday two weeks after the subject hearing.

NOTE: Continued from the meetings of October 28, 2008, Item 336 and December 9, 2008, Item 333, at the request of Councilmember DeMaio for further review.

Hearing Open. No testimony taken.

STAFF'S RECOMMENDATION:

Take the following actions:

Subitem-A: (R-2009-445 Cor. Copy) ADOPTED AS RESOLUTION R-304581

Certifying that Environmental Impact Report No. 91647/SCH No. 2007111095, on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State Guidelines thereto (California Code of Regulations Section 15000 et seq.), that the report reflects the

independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of a rezone, easement vacation, vesting tentative map, and planned development permit/site development permit for the Casa Mira View Project;

Declaring that pursuant to California Public Resources Code Section 21081 and California Code of Regulations Section 15091, the City Council adopts the findings made with respect to the project, a copy of which is on file in the Office of the City Clerk and incorporated herein by reference;

Declaring that pursuant to California Code of Regulations Section 14093, the City Council adopts the Statement of Overriding Considerations, a copy of which is on file in the Office of the City Clerk and incorporated herein by reference with respect to the project;

Declaring that pursuant to California Public Resources Code Section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto, as Exhibit A, and incorporated herein by reference;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project;

Directing the City Attorney to prepare the appropriate resolution according to Section 40 of the City Charter.

Subitem-B: (O-2009-52) INTRODUCED, TO BE ADOPTED
TUESDAY, JANUARY 20, 2009

Changing 56.30 acres located on the east side of Westview Parkway, north of Mira Mesa Boulevard, within the Mira Mesa Community Plan Area, in the City of San Diego, California, from the RM-3-7 Zone into the RM-3-8 Zone, as defined by San Diego Municipal Code Section 131.0400, and repealing Ordinance No. O-18451 (New Series), adopted December 9, 1997, of ordinances of the City of San Diego insofar as the same conflicts herewith;

Directing the City Attorney to prepare the appropriate ordinance according to Section 40 of the City Charter.

Subitem-C: (R-2009-447 Rev.) GRANTED TENTATIVE MAP, ADOPTED AS
RESOLUTION R-304582

Certifying findings with respect to Vesting Tentative Map No. 481936 and Easement Vacation No. 368513;

Declaring the findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference;

Granting Vesting Tentative Map No. 481936 and Easement Vacation No. 368513 to Scripps Mesa Developers, LLC, a California Limited Liability Company, Applicant/Subdivider and John D. Leppert, Engineer, subject to the attached conditions;

Directing the City Attorney to prepare the appropriate resolution according to Section 40 of the City Charter.

Subitem-D: (R-2009-446 Rev.) GRANTED PLANNED DEVELOPMENT
PERMIT, ADOPTED AS AMENDED AS
RESOLUTION R-304583

Certifying findings with respect to Planned Development Permit No. 294375/Site Development Permit No. 294373;

Declaring the findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference;

Granting Planned Development Permit No. 294375/Site Development Permit No. 294373 to Scripps Mesa Developers, LLC, a Limited Liability Company, Owner/Permittee, under the terms and conditions set forth in the attached permit;

Directing the City Attorney to prepare the appropriate resolution according to Section 40 of the City Charter.

OTHER RECOMMENDATIONS:

Planning Commission on October 2, 2008, voted 4-0-3 to approve this project and recommended the applicant look into the sustainability aspects.

Ayes: Naslund, Ontai, Griswold, Golba
Not present: Schultz, Otsuji, Smiley

The Mira Mesa Community Planning Group has recommended approval of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Rezone of the property from the RM-3-7 Zone to the RM-3-8 Zone, Easement Vacation, Vesting Tentative Map, Planned Development Permit and Site Development Permit to subdivide and develop 1,848 dwelling units on a 41.31 acre site within the Mira Mesa Community Plan.

STAFF RECOMMENDATION:

1. **Certify** Environmental Impact Report No. 91647, **adopt** the Findings and Statement of Overriding Considerations, and **adopt** the Mitigation Monitoring and Reporting Program; and
2. **Adopt** Rezone No. 481935 and **approve** Easement Vacation No. 368513, Vesting Tentative Map No. 481936, Planned Development Permit No. 294375 and Site Development Permit No. 294373.

EXECUTIVE SUMMARY:

The General Plan and Mira Mesa Community Plan designate the site for Medium High Density Residential at a density range of 30-45 dwelling units per acre. The site, within the RM-3-7 Zone, is proposed to be rezoned to the RM-3-8 Zone. The project site is located in an urban setting and is surrounded by existing development and major transportation corridors. Single-family residential subdivisions are located to the north and northwest.

Westview Neighborhood Park and Hage Elementary School are located across the street on the west side of Westview Parkway. Mesa Shopping Center and an existing park-n-ride facility maintained by Caltrans are located south of the site. Along the easterly property line is Interstate 15.

The project site was included as part of the development agreement entitled “Development Agreement between the City of San Diego and Pardee Homes Construction Company Negotiated and Entered Into Pursuant to City Council Policy 600-37 adopted by the City Council on August 8, 1988, and as Amended on September 13, 1988,” and is identified as the “Casa Mira View” project. This development agreement was adopted by the City Council by Ordinance O-17178 on November 14, 1988. All developer obligations from the DA have been satisfied.

The proposed development would include 1,848 residential multi-family dwelling units within three five-story residential buildings with a combined area of 3,015,560 square feet. Of the 1,848 dwelling units, 185 units would be affordable units through an agreement with the Housing Commission. Of these 185 units, 40 units would be located off-site at the Legacy project in Mira Mesa and the remainder would be on the project site. The project would also be LEED certified.

Staff has reviewed the request for a Rezone, Easement Vacation, Vesting Tentative Map, Planned Development Permit and Site Development Permit to allow the project and determined the project is consistent with all relevant adopted City Council policies and regulations of the Land Development Code. An Environmental Impact Report has been prepared for the project, Findings and Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program are required to approve the proposal. Staff has provided draft findings to support approval of the Easement Vacation, Subdivision Map and Development Permits and Draft Conditions of Approval. Staff recommends the City Council approve the project as proposed.

FISCAL CONSIDERATIONS:

No fiscal impact. All costs associated with the processing of the application are recovered through a deposit account funded by the applicant.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On October 2, 2008, the Planning Commission recommended staff’s recommendation by unanimous vote of 4:0:0. The Mira Mesa Community Planning Group, on July 21 2008, voted unanimously to recommend approval of the project as proposed.

KEY STAKEHOLDERS: Scripps Mesa Developers, LLC

Broughton/Anderson/JF

Staff: John Fisher – (619) 446-5231
Shirley R. Edwards – Deputy City Attorney

NOTE: This item is not subject to the Mayor's veto.

FILE LOCATION: SUBITEMS A, C & D: MEET
SUBITEM B: NONE

COUNCIL ACTION: (Time duration: 2:00 p.m. – 3:26 p.m.)

Testimony in opposition by Joy Sunyata.

Testimony in favor by John Leppert, Stuart Posnock, Ted Brengel and Bob Hurdle.

MOTION BY DEMAIO TO INTRODUCE THE ORDINANCE IN SUBITEM B; TO ADOPT THE RESOLUTIONS IN SUBITEMS A AND C TO CERTIFY THE ENVIRONMENTAL IMPACT REPORT, TO ADOPT THE FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS, TO ADOPT THE MITIGATION MONITORING AND REPORTING PROGRAM, TO APPROVE THE EASEMENT VACATION AND VESTING TENTATIVE MAP WITH A REVISION FOR CONDITION NO. 5 AS REQUESTED BY STAFF; AND TO ADOPT THE RESOLUTION AS AMENDED IN SUBITEM D TO APPROVE THE PLANNED DEVELOPMENT PERMIT AND SITE DEVELOPMENT PERMIT WITH REQUESTED MODIFICATIONS BY THE APPLICANT AS OUTLINED IN THEIR LETTER OF JANUARY 6, 2009, EXCLUDING CONDITIONS (D) AND (E), TO INCLUDE CONDITIONS (D) AND (E) AS A COMMITMENT OR OBLIGATION IN THE RESOLUTION, TO REVISE CONDITION NO. 10 AS REQUESTED BY STAFF AND TO AMEND CONDITION 36 TO INCORPORATE COUNCIL MEMBER FRYE'S REQUEST TO PROVIDE SHUTTLE SERVICE SEVEN DAYS A WEEK SUBJECT TO RIDERSHIP DEMAND. Second by Faulconer. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Hueso at 3:55 p.m. in honor of the memory of:

Art Risser as requested by Council Member Gloria;
Dr. Cleo Malone as requested by Council Member Young; and
Edward Cramer as requested by Council Member Frye.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 3:48 p.m. – 3:55 p.m.)

Elizabeth S. Maland, City Clerk
City of San Diego